

Richard Borzouye
BORZOUYE LAW OFFICES, P.C.
14 Wall Street, 20th Floor
New York, NY 10005
Telephone: 212-618-1469
Attorney for Defendant
THEOHARIS TOUMAZATOS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
Plaintiff,

vs.

SENTENCING REPORT

Case No.: CR. No. 10-0043 (RRM)

DEFENDANT'S OBJECTION TO PRE-

THEOHARIS TOUMAZATOS,
Defendant.

The Defendant, Theoharis Toumazatos, by and through his attorney, Richard Borzouye, Esq., respectfully objects to the Pre-Sentencing Report (PSR) filed by the U.S. Probation Office for the following reasons:

- 1) Despite the U.S. Probation Office's allegations that Mr. Toumazatos did not file his tax returns with the Internal Revenue Service (IRS) and the New York State Department of Taxation & Finance for the tax year 2006 is erroneous. Upon further investigation by the Defense, copies of said tax returns for 2006 were indeed filed timely with the IRS and the State of New York, for which copies have been furnished to the U.S. Probation Office.
- 2) Despite the U.S. Probation Office's allegations that Mr. Toumazatos did not file his tax returns with the Internal Revenue Service (IRS) and the New York State Department of Taxation & Finance for the tax year 2009 is also erroneous. Upon further investigation by the Defense, Mr. Toumazatos timely filed an extension with the IRS and the New York State Department of Taxation & Finance before the April 15, 2010.

However, Mr. Toumazatos was not required to file an extension due to him knowing that he was to receive a refund. Copies of the said extension was furnished to the U.S. Probation Office as well. It has come to the attention of the Defense that Mr. Toumazatos has indeed filed his 2009 taxes, both Federal & State. Copies will be furnished to Probation as soon as possible.

- 3) Despite the U.S. Probation Office's allegations that Mr. Toumazatos's taxes for the years 2007 and 2008 are fraudulent and false is also erroneous and the Defense strongly objects. For the record, the IRS nor the New York State Department of Taxation & Finance has ever audited or called into question Mr. Toumazatos's (and his wife) tax returns for the respective tax years of 2007 and 2008. The Defendant did not file a Schedule C in 2007 due to his company only making enough revenue to cover wages, which was reported on the Defendant's 1040. For the tax year 2008, although Probation is correct about IRA contributions not being on the Schedule C of the corporation, it's due to the fact that the Roth IRA (which is after tax withholdings) and the Defendant's wife, who has a traditional IRA (which is pre-tax withholdings) having contributed by the individual, not the corporation. Thus, the Defendant is not required to file the IRA contribution on the corporation Schedule C. Furthermore, with respect to Probation's PSR, the fact that the Defendant charged himself fees for the 2007 tax returns is erroneous. Obviously, the Defendant would not charge himself or his wife for filing his own tax returns. The purpose of why the invoice was attached to the return was due to the fact that the Defendant's software automatically generates an invoice and charges by page for tax returns for client's of the Defendant's. Please refer to Defendant's Schedule A that he has not charged himself fees for filing returns.

Therefore, The Defense respectfully requests that the U.S. Probation Office revise the PSR with respect to the objections that have been specifically articulated by the Defense.

Respectfully submitted,
/s/

Richard D. Borzouye, Esq.
Bar Code RB3461

Dated: June 18, 2010
New York, NY